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COMMITTEE ON THE RIGHTS OF THE CHILD

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Initial reports of States parties due in 1995

Addendum

MONACO

[9 June 1999]

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Introduction

1. The Principality of Monaco acceded to the Convention on the Rights of the Child (with one declaration and one reservation) on 21 June 1993; the Convention came into force in Monaco on 21 July 1993. As a State party, Monaco is submitting its initial report to the Committee on the Rights of the Child in accordance with article 44 of the Convention.

2. Monaco is an independent and sovereign State adjoining a number of communes of the French department Alpes-Maritimes. It has a Mediterranean coastline. The total area is 195 hectares, of which approximately 40 have been reclaimed from the sea over the last 20 years. It comprises a single commune, Monaco, whose boundaries coincide with those of the State.

3. The population of 29,972 includes 122 nationalities: 5,070 Monegasques, 12,047 French, and 5,000 Italians (source: most recent official census, 1990).

4. French is the official language, but Italian and English are also widely understood and spoken. The Monegasque vernacular is used by older inhabitants and taught to the younger generation at school. It may be studied as a baccalaureate option.

5. The official currency is the French franc. Monegasque coins of the same denominations as French coins will remain in circulation until 2002. Monaco introduced the euro on 1 January 1999, despite being a third country in relation to the European Union and thus with regard to the process of monetary union leading to the creation of a euro zone. Monaco subsequently intends to issue coins denominated in euros bearing a Monegasque design.

6. The State religion is Roman Catholicism, but freedom of worship is guaranteed under article 23 of the Constitution.

7. The Constitution of 17 December 1962 declares that Monaco is a sovereign State within the framework of the general principles of international law and special conventions with France. The principle of government is a hereditary, constitutional monarchy.

8. The executive power, which derives from the high authority of the Prince, is exercised by the Secretary of State assisted by a Conseil de Gouvernement (Government Council) composed of three councillors. The Conseil national (Parlement), comprising 18 elected representatives chosen by Monegasques on the basis of universal suffrage, enacts legislation. Every year, the Government has an opportunity to explain and clarify its policy in the course of a parliamentary debate on the Budget Act.

9. The 1962 Constitution enshrines the principle of the independence of the judiciary and states that the legality of administrative measures shall be supervised by a special body, the Supreme Court. It also emphasizes rigorous respect for human rights and abolishes the death penalty.

10. There is also an elective municipal council responsible for running the city of Monaco (population register, hygiene, community development, etc.).

I. GENERAL MEASURES OF APPLICATION

A. Measures taken to harmonize national law and policy with the provisions of the Convention (art. 4)

11. Monegasque law and policy are already based on the fundamental principles embodied in the Convention. In accordance with the spirit of the Convention and articles 4 and 34 thereof, Act No. 1203 of 13 July 1998 supplemented article 265 of the Criminal Code by authorizing a custodial sentence of between six months and three years and a fine for "any person who organizes or facilitates the sexual exploitation of minors under 18 within or outside the territory of Monaco".

12. The same Act supplemented article 8 of the Code of Criminal Procedure by empowering Monegasque courts to try "any person guilty of indecent assault or a sexual offence against a minor outside Monaco, as provided for under articles 261-263 and 265, paragraphs 1, 2 and 5, of the Criminal Code, when the person is present in Monaco".

B. Measures to make the initial report of Monaco widely available to the public at large (art. 44, para. 6)

13. The Government intends to forward this report to the Monegasque Press Centre and to publish it on Monaco's official Web site (monaco.gouv.mc) for the benefit of the public at large, non-governmental organizations (NGOs) and relevant associations in the Principality.

II. DEFINITION OF THE CHILD

14. Under Monegasque law, a "child" is any human being under 21 years of age, unless the specified age of majority is lower pursuant to relevant legislation.

A. Age of majority and age of franchise

15. Article 410-1 of the Civil Code establishes that the age of majority, following which a person is free to perform all acts of civil life, is 21 years. Article 53 of the Constitution establishes that the age of franchise, whereupon a person may exercise political rights, and specifically the right to vote, is also 21. Hence anyone under 21 years of age is considered a minor. However, this strict rule is relaxed somewhat by a number of laws which specify the differing degrees of independence enjoyed by minors.

B. Degree of independence of minors

1. Emancipation

16. A minor may be emancipated by his parents, or by the Family Council if under guardianship, at the age of 18 (Civil Code, art. 403 et seq.). A minor is automatically emancipated when he or she enters into marriage, which is possible at the age of 18 for men and 15 for women (Civil Code, arts. 117 and 403).

2. Rules governing the status and capacity of persons

17. The age of majority of aliens residing in Monaco is that specified under their national legislation. Hence a French national attains majority at the age of 18.

3. Special provisions

(a) Legal counselling

18. Legal counselling is not referred to in a specific instrument. It is not considered to be prejudicial to the interests of the child and accordingly is sanctioned by use. In practice, counselling of this kind is extremely rare, because children who are experiencing problems, even of a legal nature, will naturally turn to a social agency that is much more accessible and closer to them, for example their school or community.

(b) Medical counselling

19. There are no instruments that refer specifically to medical counselling. However, young children must undergo mandatory medical check-ups. Throughout their schooling, all children are monitored by the school medical service. They are free to consult school-based physicians, nurses and psychologists at no charge.

20. The social services and community-based organizations also have individuals who are trained to listen to children and direct them towards an appropriate physician if necessary. Free and anonymous AIDS testing is available to minors and adults alike.

21. There is nothing comparable to a family planning service in Monaco. The sale of contraceptive medicines and products to minors may be subject to conditions. Contraceptive devices (condoms) are sold openly.

(c) Compulsory education

22. Children must attend school from age 6 to age 16 inclusive (Act No. 826 of 14 August 1967). Primary and secondary education is free (Constitution, art. 27).

(d) Employment

23. Children may enter employment as soon as they complete their compulsory schooling, i.e. from the age of 16. An exception is made for children working under the direct supervision of their mother or father in establishments employing family members only (Minimum Employment Age Act (No. 719) of 27 December 1961).

24. Working hours for minors under the age of 18 are restricted by articles 13 bis, 13 ter, and 13 quater of Statutory Order No. 677 of 2 December 1959, as amended on this point by Act No. 844 of 27 June 1968 and Act No. 1067 of 28 December 1983. The total number of hours worked must not exceed 8 hours a day or 39 hours a week.

25. Night work is prohibited, without exceptions. The minimum duration of rest periods is specified, and it is forbidden to employ minors in a hazardous or stressful working environment (Ministerial Order No. 58-168 of 29 May 1958). There are currently no regulations on part-time employment.

26. All aspects of the right to work, including apprenticeship agreements, are currently being reviewed with a view to undertaking a thorough overhaul of legislation. Special attention will be paid to the situation of minors.

(e) Sexual relations

27. Sexual relations, even consensual, with a minor under 15 are considered an indictable offence punishable by imprisonment of up to 10 years depending on circumstances. Heavier penalties are envisaged for the exercise of coercion or if the offence is committed by defined categories of persons.

28. Thus, children under 15 cannot validly consent to have sexual relations. The partner is liable to punishment. A minor may face prosecution if he or she has sexual relations with another minor under 15. Sexual relations with girls aged between 15 and 21 are punishable if the girl or her parents file a complaint, and if deception or abuse of authority were used to induce her to engage in such relations.

29. The offence is expunged by marriage.

(f) Marriage

30. Under article 117 of the Civil Code, men under the age of 18 and women under the age of 15 may not enter into marriage. Nevertheless, the Prince may grant exemption from this age requirement when compelling grounds exist.

31. The consent of both spouses is necessary for a marriage to take place (Civil Code, art. 116). Furthermore, the consent of either parent or, in some cases, of an ascendant, the Family Council or the guardianship judge, is required before a minor may enter into marriage (Civil Code, arts. 118-122).

32. Minors may conclude a marriage contract in the presence of persons authorized to consent to the marriage. When such persons are not present, the contract may be annulled at the minor's request when the minor attains the age of majority (Civil Code, art. 1139).

(g) Voluntary enlistment in the armed forces and conscription

33. There is no military service in Monaco. Minors are not admitted into the paramilitary police force (carabinieri and fire brigade).

(h) Giving testimony in court

34. In civil cases, minors over the age of 15 may testify on the same footing as adults. Other legally incompetent persons, including minors under the age of 15, are not required to take an oath in order to testify (Code of Civil Procedure, art. 334).

35. In criminal cases too, minors over the age of 15 may testify on the same footing as adults. Children under the age of 15 may only testify as privileged witnesses without taking an oath (Code of Criminal Procedure, art. 134).

36. It is normal in Monegasque courts to hear child witnesses from the age of 13. This is merely custom, as the child is under no obligation to testify.

(i) Criminal liability

37. The age of criminal liability is 18 years. Thereafter, young persons may be tried and sentenced as adults. Children aged under 13 are not criminally liable, and hence cannot be convicted under criminal law. For minors aged between 13 and 18, the penalty for a serious indictable offence may not exceed 20 years' imprisonment. The penalty for a lesser indictable offence must be no more than half the sentence that would have been imposed on an adult over 18 (Criminal Code, art. 46).

38. Act No. 740 of 25 March 1963 establishes a special procedure for the prosecution and sentencing of young offenders. The role of the investigating judge is assumed by a guardianship judge. The investigation focuses on the sociological and psychological examination of the young offender. Specific penalties are envisaged for minors: reprimands, release under parental supervision, release under surveillance, and placement in an appropriate establishment. When a custodial sentence is handed down, a minor is detained separately from adult offenders and segregated from other persons at night.

(j) Consumption of alcohol

39. It is illegal to sell or supply alcoholic beverages to minors under the age of 20 in public premises. Minors under the age of 18 unaccompanied by their parents are barred from establishments serving alcoholic beverages after 2200 hours. It is nevertheless true that alcoholic beverages are openly available in retail outlets and may be consumed freely on private premises.

(k) Use of controlled substances

40. The production, preparation, transport, traffic, sale, possession, acquisition and use of all controlled substances is illegal. The maximum penalty for any of these offences is 20 years' imprisonment. The penalty may be doubled when the offence involves intent to facilitate the use or possession of controlled substances by a minor under 21 (Act No. 890 of 1 July 1970).

III. GENERAL PRINCIPLES

A. Non-discrimination (art. 2)

41. Article 17 of the Constitution states that all Monegasques are equal before the law. Aliens in Monaco enjoy all public and private rights that are not strictly reserved for Monegasque nationals (Constitution, art. 32). Although the Constitution stipulates that Monegasques enjoy preferential access to employment and bestows on them the right to social benefits, education and the right of peaceful assembly and association, exactly the same rights are granted to resident aliens.

42. Accordingly, all children residing in Monaco are entitled to free primary and secondary education in the compulsory State school system. In addition, Monaco's schools provide free education for many foreign children living in neighbouring regions of France and Italy.

43. For children as well as adults, there is no discrimination on grounds of race, colour, sex, language, religion, political views, origin, financial situation, or any other factor.

B. Best interests of the child (art. 3)

44. The best interests of the child are the prime consideration in all decisions affecting children. For example, these interests are pursued by judges not only through the instruments which specifically cite them, but also through inquiries by social welfare agencies, expert psychological reports, and the views of minors themselves when the law allows the judge to hear their testimony directly.

45. Under article 214-2 of the Civil Code, any person who has raised a minor may be granted a right of access to the said minor if such access is in the child's interest. Under article 318 of the Civil Code, educational support measures may be revoked at any time if the minor's interests so require.

46. Article 404 of the Civil Code states that, in the event of disagreement between the parents, the guardianship judge shall rule on the emancipation of the minor in accordance with the minor's interest. Article 406 of the Civil Code states that emancipation by the Family Council must be in the best interests of the child.

C. The right to life, survival and development (art. 6)

47. Abortion is prohibited and punishable under article 248 of the Criminal Code. However, the proximity of the French border and the lack of any controls mean that a pregnancy may be terminated in France in accordance with French law.

48. There is currently no regulation of in vitro fertilization or artificial insemination. However, the protection of pregnant women and young children is a priority of family policy.

49. The maternity unit at the Princess Grace Hospital, which is equipped to the highest standards, caters to women from Monaco and neighbouring communes in France. Pregnancy, childbirth, and early childhood are all subject to mandatory medical supervision.

50. Social security schemes cover the medical costs associated with pregnancy and childbirth. Parents receive a child benefit allowance to help them raise their children.

D. Respect for the views of the child (art. 12)

51. By definition, a minor does not possess full civil or political capacity. He or she cannot therefore validly enter into contracts or take decisions on his or her own behalf. However, the law does envisage certain scenarios in which children must express their opinion, agreement, or consent, and certain procedures in which they must take the initiative.

52. Thus, under article 229 of the Civil Code, the consent of an illegitimate child over the age of 15 is required for a change of name pursuant to paternal recognition and a joint declaration by the parents to this effect.

53. Under article 249 of the Civil Code, consent to legitimizing adoption is required from a child aged 15 or over at the time the relevant application is filed. Article 271 of the Civil Code stipulates that consent to simple adoption is required from a child aged 15 or over at the time the relevant application is filed.

54. The views of the child also need to be heard and protected when the child's interests do not coincide with those of his or her legal guardian. In such cases, under article 306 of the Civil Code, it is the duty of the legal guardian to ensure that an administrator is appointed on an ad hoc basis by the guardianship judge for all acts of civil life.

55. Under article 833 of the Code of Civil Procedure, a minor may petition a guardianship judge for educational support measures, as provided for by articles 317-322 of the Civil Code. Article 835 of the Code of Civil Procedure states that the guardianship judge may hear the views of the child when deciding on a measure of educational support. Article 836 of the Code of Civil Procedure states that the guardianship judge's ruling must be communicated to the child. Article 844 of the Code of Civil Procedure stipulates that the minor may appeal the ruling within eight days of being notified of the judge's decision.

IV. CIVIL RIGHTS AND FREEDOMS

A. Name and nationality (art. 7)

1. The right to a name

56. Articles 44-50 of the Civil Code specify the conditions in accordance with which a birth certificate must be prepared for a child. This officially recorded instrument must be drawn up within four days of the birth (art. 44). It must always indicate the child's name. When the identity of the parents is unknown, a name shall be given by the registrar (art. 47).

2. The child's right to know and be cared for by his parents

57. Generally speaking, a birth certificate should indicate the name of the child's parents (art. 46, para. 1). However, the birth certificate of a child born out of wedlock need not indicate the name of either parent; alternatively, the name of only one of the parents may be indicated (art. 46, para. 2). The parents of a foundling may remain unidentified notwithstanding a thorough police inquiry conducted at the request of the courts.

58. A mother also has the option of leaving her newborn child with the social welfare services and requesting that her identity be kept secret. In such cases no reference is made on the birth certificate to the identity of the parents (art. 47).

59. The child's right to be cared for by its parents is not explicitly referred to in the law, since this right flows from the aggregate of rules governing family law. Nevertheless, in certain serious cases established by law, and always with the child's interests in view, the judge may remove a child from the care of its parents and entrust it to the care of a third person or an institution. Additionally, the law provides for a system of guardianship in the event of the parents' death or legal incapacity (Civil Code, arts. 333-402).

3. The right to acquire nationality at birth

60. The following reservation was entered in connection with this right when the Convention was ratified: "The Principality of Monaco declares that this Convention, especially article 7, shall not affect the rules laid down in Monegasque legislation regarding nationality". There are therefore no plans to amend the law in this respect.

61. This right is strengthened by the Convention on Certain Questions relating to the Conflict of Nationality Laws, signed at The Hague on 12 April 1930, under which signatory States pledge to prevent cases of statelessness. Accordingly, any child of unknown parentage found in Monegasque territory is considered to be Monegasque. However, in addition to children born in Monaco of stateless parents, a child born either in or outside Monaco of a Monegasque mother not meeting the requirements of article 1 of the Nationality Act shall be deemed stateless if the father fails to recognize the child or cannot transmit his nationality to the child. The latter scenario is currently dealt with under the naturalization procedure when the child reaches the age of majority.

B. Preservation of identity

62. Breaches of the Civil Code in connection with the declaration of births and the preparation of birth certificates are punishable by a prison sentence and a fine, in accordance with articles 281 and 282 of the Criminal Code. The substitution of one child for another is a criminal offence under article 280 of the Criminal Code.

63. The falsification of a civil status certificate is a criminal offence under articles 91 and 92 of the Criminal Code. However, there exist cases in which the name of a child may be legitimately changed, for example in the event of adoption or acknowledgement of parentage subsequent to a child's birth.

C. Freedom of expression (art. 13)

64. There is no specific provision guaranteeing freedom of expression for minors (adults are guaranteed the same freedom under article 23 of the Constitution). Modern teaching methods and current life-styles allow children considerable scope to express themselves freely.

D. Access to information (art. 17)

65. Information is free and accessible to all without age restrictions. However, young children are prohibited from viewing certain films of a violent or pornographic nature, and it is prohibited to show or sell material depicting pornography or extreme violence to minors. Offences against morality are proscribed by article 26 of an Order on Freedom of the Press dating from 3 June 1910.

E. Freedom of thought, conscience and religion (art. 14)

66. There is no specific provision guaranteeing these freedoms for children. Once again, adults exercise these freedoms by virtue of article 23 of the Constitution. The right of "parental authority" bestowed on parents by the Civil Code enables them to choose their children's style of upbringing and religion. However, parental excesses of any kind such as would endanger a child's life, health or upbringing, provide sufficient grounds for a guardianship judge to intervene.

F. Freedom of association and of peaceful assembly (art. 15)

67. The minor's status of a person under legal disability precludes him or her from occupying the position of leader of an association. However, the participation of a minor as an ordinary member of an association is permitted to the extent that parental consent is assumed.

68. More than 20 cultural, sports, and humanitarian associations are specially targeted at young people and bring together over 30 per cent of the minors in Monaco. Membership of such associations enables them to develop their personality and sense of responsibility. All these associations are subsidized by the State.

G. Protection of privacy (art. 16)

69. The right to respect for privacy and family life is guaranteed by article 22 of the Constitution. Article 22 of the Civil Code specifies that this right is safeguarded for any person living or dead, hence for children as well as adults. Violations of privacy and family life are punishable by imprisonment and a fine under articles 308-2 and 308-5 of the Criminal Code. Protection of children's privacy does not prejudice the right of parents to monitor and supervise their children.

H. The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment (art. 37 (a))

70. Capital punishment has been abolished in Monaco. Cruel, inhuman or degrading treatment is proscribed by article 20 of the Constitution. Minors cannot be sentenced to life imprisonment. Corporal punishment does not exist. Moreover, Monaco acceded to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (New York, 1984) on 6 December 1991.

V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

A. Family benefits

1. Family benefits

71. A family benefits scheme enables Monegasques to receive financial assistance in the form of:

(a) Family loans for "young couples" helping them to set up home;

(b) Maternity grants payable at the birth of a child;

(c) A monthly lone-parent allowance payable to women raising children on their own;

(d) A monthly non-working mother's allowance is payable to women who discontinue gainful employment in order to stay at home to raise a child.

72. Additionally, in order to facilitate their entry into the labour force, a special allowance was introduced in 1988 for first-time job-seekers who have ties to the Principality of Monaco (young people aged 17 to 25).

2. Early childhood establishments

73. A number of special establishments (day-care centres and occasional care centres) cater for more than 300 children aged between three months and three years from families living in Monaco or, in some cases, children of persons who live in neighbouring communes but work in Monaco. Following a discussion, it has been noted that the trend is towards medium-capacity establishments (maximum 30-50 places) and the development of other child-minding facilities.

B. Parental guidance (art. 5)

74. There are no specific provisions on this topic in Monegasque law. However, parents or other legal guardians have the right and the duty to provide the most balanced upbringing possible for children. Monaco naturally considers that the principles enshrined in the Convention are an integral part of the upbringing which parents must provide for their children.

C. Parental responsibilities (art. 18, paras. 1-2)

75. Monegasque law refers to the concept of "parental authority" rather than parental responsibility. Article 300 of the Civil Code specifies that children are subject to the authority of their parents until they reach the age of majority. It is normally the father who exercises parental authority (Civil Code, art. 301), and the mother "collaborates with her husband in ensuring the moral and material direction of the family ... raising the children and preparing their establishment in the Principality" (Civil Code, art. 182). In the event of impediment or the death of the father, this authority is exercised by the mother alone (Civil Code, art. 301 et seq.).

76. The Civil Code provides for the intervention of the guardianship judge in cases where a child's interests are likely to be seriously compromised. Lastly, as indicated elsewhere, Monaco has a full range of public and private institutions dedicated to the protection of children and child development.

D. Separation from parents (art. 9)

77. Monegasque law fully conforms to article 9, paragraphs 1-3, of the Convention. As to paragraph 4, it should be borne in mind that there is no capital punishment in Monaco. Persons deprived of their liberty are held in the Principality's sole correctional establishment, the remand prison. Their place of detention is therefore widely known.

78. Articles 180 and 181 of the Code of Criminal Procedure, supplemented by the General Prison Regulations, specify the conditions under which prisoners may send and receive correspondence and be seen by visitors. On an exceptional basis and in serious cases, the investigating judge may order a remand prisoner to be held incommunicado for up to 15 days. However, this stricture does not apply to defence counsel, who have unrestricted face-to-face and written contact with prisoners at any time (Code of Criminal Procedure, arts. 180-183). Family members are thus kept fully informed of the prisoner's status at all times.

E. Family reunification (art. 10)

79. Under article 78 of the Civil Code, the domicile of an unemancipated minor is that of the person exercising guardianship. Consequently, any person lawfully domiciled in Monaco may bring into the Principality any child in his or her care and reside therein with the said child.

80. Furthermore, nobody is prevented from leaving Monegasque territory, except persons provisionally released on bail under supervision (Code of Criminal Procedure, art. 187 et seq.).

81. The child's right to maintain personal ties and direct regular contact with both parents when they live in different States is respected without any constraints, except for restrictions imposed by a court decision.

F. Recovery of maintenance for the child (art. 27, para. 4)

82. On 28 June 1961 Monaco acceded to the Convention on the Recovery Abroad of Maintenance (New York, 20 June 1956). Under domestic law, parents are obliged in all cases,

even after divorce, to contribute to the maintenance and upbringing of their children (Civil Code, art. 206-20). When alimony or a contribution has been determined pursuant to a court decision, the parent who fails to meet his or her obligations is liable to a custodial sentence of between three months and a year and a fine for wilful neglect of family members (Criminal Code, art. 296).

G. Children deprived of their family environment

83. Articles 333-402 of the Civil Code deal with the guardianship of children whose parents have died, are not known or have forfeited their parental authority. Guardianship is conferred on a family member and is exercised under the supervision of a Family Council comprising the parents and relatives by marriage or friends of the mother or father, under the direction and guidance of the guardianship judge. In the absence of anyone who could be appointed as guardian, guardianship vests in the State.

84. Act No. 32 of 15 June 1920 deals with arrangements for children at Monaco's orphanage, which is no longer in existence. The social services currently use a special children's home, the Foyer Sainte-Dévote, for children deprived of their parents or placed by court order.

H. Adoption (art. 21)

85. Adoption is regulated by Part VIII of the Civil Code (Adoptive descent). Adoption is ordered by a judge following an evaluation of the adoptive parents and the situation of the child. Adoption must be in the child's interests.

86. Simple adoption enables a child to retain his or her rights in the family of origin. It may be revoked by a court on serious grounds; when the application to revoke is made by the adopter, the adoptee must be aged over 15. Legitimizing adoption is irrevocable; in such cases, adoptive descent is substituted for direct descent.

87. The Office of Health and Social Promotion prepares the case files of future adopters prior to adoption. The Office then approves or turns down requests for adoption in the light of medical, social and psychological reports and police inquiries. Approximately 10 requests are approved each year.

88. The law does not distinguish between the adoption of Monegasque and foreign children. Adoption takes place in an international context. In the near future Monaco intends to accede to the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption of 29 May 1993.

I. Illicit transfer and non-return (art. 11)

89. The abduction of a child is punishable by up to 20 years' imprisonment in certain cases (Criminal Code, arts. 280, 290 and 292). Failure to hand over a child to the persons entitled to its custody is punishable by 5-10 years' imprisonment (Criminal Code, art. 289).

90. When a ruling has been handed down concerning the guardianship of a child, a parent who fails to hand the child over to the persons entitled to its custody is liable to a custodial sentence of between three months and a year, in addition to a fine (Criminal Code, art. 294). The illicit transfer of children abroad, usually following the parents' divorce, is a problem that needs to be resolved on a case-by-case basis between the national authorities concerned. There are a number of cases currently outstanding which have yet to be settled in a satisfactory manner.

J. Abuse and neglect, including physical and psychological recovery and social integration (arts. 19 and 39)

91. Under articles 280 et seq. of the Criminal Code, abandonment of a child is an offence punishable by up to five years' imprisonment. The killing of a child (infanticide) is punishable by life imprisonment. However, if the crime is committed by the mother, the punishment is limited to 20 years' imprisonment (Criminal Code, art. 227).

92. Assault and battery, deprivation of care or food, or any form of duress exercised against a child under the age of 15 are punishable by imprisonment of between one and five years and a fine. If the offence has serious consequences, the sentence may be extended to 10 years (Criminal Code, art. 243). When the offence is committed by the parents or a person having authority over the child, a maximum prison term of 20 years can be imposed (Criminal Code, arts. 244 and 245). The sentence can be increased to life imprisonment in the event of the death of the child or intent to cause the death of the child (Criminal Code, art. 246).

93. As has been indicated above, rape or indecent assault of a minor is punishable under articles 260-273 of the Criminal Code by up to 20 years' imprisonment. The same sentence applies for inciting minors to immorality or prostitution.

94. In addition, Act No. 1203 of 13 July 1998 supplemented article 265 of the Criminal Code by authorizing imprisonment of between six months and three years and a fine for "any person who organizes or facilitates the sexual exploitation of minors within or outside the territory of Monaco". The same Act supplemented article 8 of the Code of Criminal Procedure empowering Monegasque courts to try "any person guilty of indecent assault or a sexual offence against a minor outside Monaco ... when the person is present in Monaco".

95. Whenever a child is the victim of physical or psychological duress or actions which endanger its health or upbringing, the guardianship judge and social services make appropriate arrangements for supervision.

K. Periodic review of placement (art. 25)

96. Protective measures in respect of minors ordered by the guardianship judge may be amended or revoked at any time if the minor's interests so dictate (Civil Code, art. 318). When a child is ordered to be placed in an approved school, the person responsible for executing the order must submit reports on the child's progress to the judge at intervals determined by the latter (Civil Code, art. 319). The conditions of placement of children in care are subject to ongoing supervision. Inspection visits must be carried out at least once a year.

VI. HEALTH AND WELFARE

97. It should be stressed at the outset that the provisions of the Convention, particularly article 24, have little relevance to Monaco, a small European State that is one of the most highly developed countries in the world.

A. Survival and development (art. 6, para. 2)

98. This point has already been addressed in section III (c) dealing with general principles (paras. 47-50).

B. Disabled children (art. 23)

1. Commissions for disabled children

99. Two bodies have responsibility for disabled children:

The Child Guidance Commission established under the Education Act (No. 826) of 14 August 1967, which advises on the placement of disabled children in special classes or specialized institutions.

A Commission established under Sovereign Order No. 10.127 of 3 May 1991 concerning social measures for disabled persons. This Commission, acting on a proposal by a school medical inspector, determines the degree of permanent disability of handicapped persons.

2. Facilities for disabled minors

(a) Facilities for the mentally handicapped

100. In schools, article 4 of the Education Act (No. 826) of 14 August 1967 stipulates that "special education incorporating a general and vocational element, adapted to individual capacities, may be offered to children who, by reason of their physical or mental state, are unsuited to receive an education under normal conditions (...)". To this end, developmental education classes have been organized at the primary school level and a specially-adapted general and vocational education section has been instituted at the junior secondary school level.

101. A medical-cum-social institution located in France, the Child Guidance Institute, caters for handicapped children. Under the terms of a convention adopted on 29 February 1972, 10 places in this institution are reserved for children and young persons from Monaco aged between 3 and 20 with behavioural problems or mild maturation difficulties. In addition to schooling and the encouragement of personal development and socialization, the institute offers rudimentary vocational training. A cooking workshop has been opened with a donation of 300,000 francs from the Principality of Monaco to mark the 700th anniversary of the Grimaldi dynasty. The welfare institutions overseeing the education of disabled children cover all the non-residential and residential costs associated with the placement of minors in special institutions.

(b) Facilities for physically handicapped persons

102. Monaco's schools are able to accommodate physically handicapped children of school age. A special centre run by a local association for the physically handicapped caters for children in this category during the school holidays.

3. Benefits for minors with disabilities

103. With regard to non-cash benefits, minors with disabilities are covered by the social insurance arrangements of the person caring for them. As far as cash benefits are concerned, Sovereign Order No. 10.127 of 3 May 1991, cited above, established a special education grant and two supplements (category I and category II supplements) payable to disabled children whose parents reside in Monaco. There are currently 17 beneficiaries of this grant.

C. Health and health services (art. 24)

104. There is no family planning service in Monaco.

1. Early childhood and day-care attendants

105. A day-care attendant scheme has been in operation since 1991. It is reserved for children in delicate health whose parents have irregular working hours. Children are looked after at the day-care attendant's home. In this connection, a study is being carried out in collaboration with the relevant public establishments and the Office of Health and Social Promotion with a view to possible relaxation of the terms and conditions governing the work of day-care attendants. A scheme is also being coordinated with Monaco's day-care centres to enable day-care attendants to temporarily supervise children who are unable to attend collective establishments owing to illness. In such cases the day-care attendant would look after the child at the parent's home.

2. Children in school; preventive health in the school environment

106. The School Medical Inspectorate carries out annual inspections of the various establishments which cater for Monaco's 6,000 schoolchildren. Meetings of physicians are convened throughout the academic year at the initiative of the Office of Health and Social Promotion to discuss the principal problems encountered in Monaco's schools, namely AIDS and smoking. Anti-drugs presentations are organized for teachers and pupils alike. Anti-drugs measures will be reinforced by training for teachers and school administrative staff, who will also serve as contact persons.

3. Outside schools; prevention of drug abuse in sporting activities

107. Young persons wishing to take up sports and to participate in competitive events are monitored from time to time by a sports medical centre. The centre intends to organize an awareness-raising campaign in sports clubs and schools on the dangers of doping and drug-taking in sports.

D. Social security (art. 26 and art. 18, para. 3)

1. The right to social security and social insurance

108. Children do not have a personal, independent or general right to benefits under a social security scheme; they are eligible for benefits as dependants of their caregiver (Family Benefits Act (No. 595) of 15 July 1954). Coverage is linked to current or past employment. There are a number of social security schemes covering practically the entire population of Monaco. Certain groups, however, are not covered by a compulsory social security scheme (persons living on unearned income, company directors, and certain widows or divorced women not in employment). These individuals can take out private insurance or, depending on their nationality, fall back on benefits offered under French or European law.

109. So long as the head of household contributes to a social insurance scheme, his dependent children benefit from his social security coverage if they reside in Monaco or the French department of Alpes-Maritimes (medical or educational benefits excluded). Benefits are payable up to age 16 (school-leaving age); 17 if the young person enrols with the Employment Service as a job-seeker; and 21 if the young person continues in full-time education beyond school-leaving age, undertakes vocational training, or is unable to work through illness or unsuitability for employment. Plans are currently being made to extend the duration of social insurance coverage.

2. Free medical care

110. Children who are not eligible dependents of a social insurance contributor may nevertheless qualify for assistance and public relief through the Welfare Assistance Office provided they meet the conditions laid down in Act No. 335 of 19 December 1941, by which the Office was established. Beneficiaries may be Monegasque or foreign nationals who have lived at least five years in Monaco, or nationals of a State that has concluded a mutual assistance treaty with the Principality (Act No. 335, art. 7). Under article 23 of the Convention relating to the Status of Refugees of 28 July 1951, to which Monaco is a signatory, medical assistance must also be extended to refugees claiming this status.

111. This assistance scheme for needy persons is not a social security scheme. However, given that article 26 of the Convention stipulates that benefits should be granted taking into account the resources of the child and persons responsible for the maintenance of the child, the medical assistance offered by the Welfare Assistance Office could be regarded as a useful top-up to the Monegasque social security system if it could be applied to all children lacking automatic entitlement to social insurance coverage. Accordingly, minors under the age of 18 could be excused the five-year residence requirement stipulated by Act No. 335 when registering as financial hardship cases, thereby granting them entitlement to free medical care.

E. Standard of living (art. 27, paras. 1-3)

112. As indicated above, Monaco's standard of living is one of the highest in the world. Parents, assisted if necessary by the social services, have the means to provide a standard of living necessary for the physical, mental, spiritual and social development of their children.

VII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES

A. Education, including vocational training and guidance (art. 28)

1. The child's right to education on the basis of equal opportunity (art. 28, para. 1)

(a) Compulsory and free primary education for all

113. Section II, paragraph 8, of the Education Act (No. 826) of 14 August 1967 (Compulsory school attendance) states that all children who have reached the age of six must attend school. Furthermore, schooling in public educational institutions is free of any charge.

114. Pursuant to this provision, all six-year-olds in Monaco without exception attend either public or private establishments under contract to the Principality. Furthermore, owing to the considerable number of non-Monegasque residents, some 30 per cent of the school population comprises over 50 different nationalities in addition to French; these pupils are fully integrated into the Monegasque education system.

(b) General and vocational secondary education for all

115. Article 8 of the Education Act further requires all young persons to continue their schooling up to the age of 16. In the context of compulsory school attendance and with a view to developing the potential and capacities of each child, general secondary education, vocational education and practical training are offered in Monaco's various educational establishments.

116. Schooling is free in public educational establishments, but financial assistance for families is also available in the form of school meals grants, school-based solidarity funds, and local authority grants.

117. The Education Act also offers secondary-school students the opportunity to perfect a foreign language of their choice through special courses, and to participate in work-experience schemes to help them map out a career path.

(c) Access to higher education on the basis of capacity by every appropriate means

118. The general curriculum enables all students in Monaco to qualify for access to higher education. With the exception of higher educational courses, in business, hotel management and secretarial work, arrangements have been made to enable students to enter the French system of higher education on the same footing as French nationals (as per article 21 of the Franco-Monegasque Convention on good-neighbourliness, signed at Paris on 18 May 1963).

119. Through its scholarship scheme, the Monegasque Government covers some of the costs incurred by students pursuing a general or technical education, thereby enabling them to realize their personal educational plans. Various scholarships are also awarded, subject to various conditions, by different foundations and associations.

(d) Educational and vocational guidance available and accessible to all children

120. The right to guidance and information occupies a central place in the guaranteed universal right to education. In the course of their academic career, students are required to draw up their own academic and vocational plan. Schools and educational counselling services help students to make the choices that this plan entails. Every secondary school in Monaco has careers officers who work with the teaching staff to help students formulate their personal plans.

121. In addition, the National Education Information Centre offers young people and adults a range of material in both paper and electronic form. It also dispenses advice and maintains an updated list of addresses to satisfy all information requirements.

122. Finally, students have the opportunity to attend careers fairs and forums and meet persons employed in various fields, thereby enabling them to refine their personal goals through dialogue with people who have real experience of the workplace.

(e) Measures to encourage regular attendance at school and reduce drop-out rates

123. Articles 11-13 of the Education Act (No. 826) provide for rigorous monitoring of absence by means of roll-calls, the reporting of all unannounced absences to the child's legal guardian, and the incitation of criminal proceedings against legal guardians who prevent their children from attending school.

124. At the secondary-school level, compulsory school attendance is supplemented by a monitoring system which obliges students to attend school regularly. The school rules of each educational establishment penalize students who absent themselves without justification. Secondary-school pupils thus learn to assume responsibility for themselves and answer for their actions to the head of the establishment.

125. When a student is repeatedly or unjustifiably absent, the teaching staff tries to ascertain the reason by initiating a dialogue with the student, thereby dealing with potential risk situations before they occur.

2. School discipline (art. 28, para. 2)

126. All forms of corporal punishment are prohibited in Monaco's schools and disciplinary measures against students who infringe rules are purely administrative in nature. These measures are outlined in the rules of the establishment and students, parents and teachers are accordingly aware of their respective rights and duties.

3. International cooperation in matters relating to education (art. 28, para. 3)

127. In order to give young people in Monaco some appreciation of the problems and needs of developing countries, the Government endeavours to involve students in projects implemented under its own auspices or through national and international humanitarian organizations.

128. Thus, at the initiative of the Monegasque Government, a number of schools, colleges, dispensaries, and even lifework centres have been built in various countries with educational needs (for example, Madagascar and the Niger).

B. Aims of education (art. 29)

129. The aims listed in article 29 of the Convention are fully taken into account in Monaco. The means used to achieve these goals are described below.

1. The development of the child's personality, talents and mental and physical abilities to their fullest potential

130. At all levels, pre-school, elementary or secondary, education is directed first and foremost at the child's physical, intellectual and moral development.

131. Article 4 of Act No. 826 also stipulates that suitable education shall be provided for children who are unable to attend school under normal conditions owing to a physical or mental handicap.

132. In order to develop the child's personality, talents and mental and physical abilities to their fullest, education includes moral, civic, artistic and sporting elements. Sports are practised under medical supervision and are adapted to the individual capacities of each child.

2. The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations

133. Civic education is part of the curriculum at all levels. Thus, core instruments such as the Declaration of the Rights of Man and the Citizen, the Convention on the Rights of the Child, and the Charter of the United Nations may be studied at different levels throughout the child's school career. The purpose of this study is to make children aware of the responsibility of each member of society, to make them think about human values and the norms of community life, and to teach them to promote the concepts of peace and solidarity upheld by international organizations.

3. The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own

134. Article 6 of Act No. 826 makes provision for study of the history of Monaco and the political, administrative, economic and social organization of the Principality. Teaching of the Monegasque language is compulsory at primary-school level, and optional at the secondary-school level. The study of human civilization and world geography enables children to understand the role of civilizations different from their own, and foreigners to appreciate the value of their own civilization.

4. The preparation of the child for responsible life in a free society, in a spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin

135. This goal of the Convention is the same as that of Monaco's educational curriculum.

5. The development of respect for the natural environment

136. Through a variety of national programmes, Monegasque schoolchildren are given a regular opportunity to participate in special days and events focusing on the environment and respect for the natural world. They also participate in international events, for example the 1997 international conference on children and sustainable development in the Mediterranean, which was attended by a delegation of Monegasque children aged between 10 and 12. They gave a number of presentations on special features of the Monegasque environment, various types of pollution and biodiversity.

C. Leisure, recreation and cultural activities (art. 31)

1. The right to rest and leisure, to engage in play and recreational activities appropriate to the age of the child

137. The National Education Committee, established pursuant to the Education Act (No. 826), is competent to advise on all questions concerning education and teaching, and one of its duties is to draw up school timetables and set the dates of school holidays. Periods of rest and leisure are therefore built into the school calendar.

138. Outside the school environment, Ministerial Order No. 58-168 of 29 May 1958 concerning special occupational health and safety measures for women and children and the Minimum Employment Age Act (No. 719) of 27 December 1961 lay down the statutory rights of children in respect of the right to leisure.

2. The right to participate fully in cultural life and the arts: appropriate opportunities for cultural, artistic, recreational and leisure activity

139. In order to enable all young people in Monaco to participate fully in artistic and cultural life, the Government has taken a number of initiatives targeted specially at children.

140. Initially, the Government intends to give each child the opportunity to learn about and better understand cultural life and the arts by ensuring that the school curriculum envisages participation by each class in major cultural and artistic events. The introduction of a "youth pass" giving young people access to numerous shows and events at reduced rates is another way of initiating young people into cultural and artistic life.

141. The Office of National Education, Youth and Sports has introduced a scheme whereby young people can subscribe to a "sports and culture pass" during the summer holidays with a view to enabling them to participate in recreational, artistic and cultural activities. For an affordable all-inclusive monthly payment, the pass enables all children to participate in a wide

range of activities. Thus, with the cooperation of numerous sports, cultural and youth associations, a policy has been put in place that favours equal access to leisure activities.

VIII. SPECIAL PROTECTION MEASURES

A. Children in situations of emergency

1. General measures

(a) Social welfare action to help young people

142. The Office of Health and Social Promotion directs and coordinates social welfare action.

(i) The Medical and Social Department of the Office of Health and Social Promotion

143. The social workers in this Department currently monitor 32 children and adolescents at open institutions as directed by a guardianship judge. These workers, who are employed by the State, are responsible for monitoring families in difficulty and helping them to raise their children. Medical and social monitoring has been strengthened through coordination with structures that have been established in recent years.

(ii) Medical and social units

144. The Medical Psychological Centre, which was established in 1993 and is supervised by the Office of Health and Social Promotion, caters for children attending school in Monaco. Its services are free. The personnel includes two child psychiatrists and three psychologists, a psychomotor therapist, a psychotherapist, a nurse, a speech therapist, a social worker and a medical secretary. The Centre treats 200 children a year.

145. The Medical and Social Prevention Unit, which was established in 1995 and is supervised by the Office of Health and Social Promotion, provides free treatment to people with an alcohol- or drugs-related problem. These people are treated by a medical and social team working under the medical supervision of a psychiatrist. The service provides methadone, on prescription and free of charge, to residents of Monaco.

(iii) Residential accommodation

146. Organized as a public establishment by Statutory Order No. 4.681 of 15 February 1960, the Foyer Sainte-Dévote comprises a residential unit and a halfway house. The residential unit accepts children from the age of three and adolescents who cannot remain in their family environment. The unit houses 14 children. The halfway house is intended for young people who have spent some years in residential care; it may be regarded as the final stage before complete independence. These "grown-up" adolescents, monitored by special social workers, are housed in seven different parts of Monaco.

147. New measures have been taken to facilitate the integration of young people once they leave the halfway house. Each young person is made accountable by signing a development goal contract, in return for which he or she receives support from various administrative services that can ease his or her integration into the labour force.

(iv) Foster families

148. The failure of corrective measures involving the parents owing to serious dysfunction or the presence of risk factors in a child's home environment, necessitate the placement of some children with foster parents. Only a guardianship judge may order placement of a child in an approved foster family.

(b) Contributions from voluntary organizations

(i) In Monaco

149. Voluntary groups in Monaco, in partnership with the Government, perform valuable social welfare work in the Principality.

150. The various sections of the Monegasque Red Cross are involved in a wide range of activities. A number of sections focus on the needs of young people, namely, the social service, the first aid section, the junior section, and the day-care centre and nursery school.

151. Young people's groups include Kids' Helpline, SOS Mothers-To-Be, and the Monegasque Association for the Assistance and Protection of Disabled Children.

(ii) Humanitarian cooperation

152. Aided financially by the Government, four Monaco-based associations channel the gifts or bequests which they receive into projects in developing countries, with special emphasis on projects involving children. They are the Monegasque Red Cross, Mission Enfance, the Association mondiale des amis de l'enfance (World Association of Children's Friends), and Monaco Aide et Présence.

153. In order to increase the effectiveness of and enhance cooperation between public and private initiatives, the Government has signed a number of conventions with Monaco-based voluntary groups and groups with an international profile.

(2) Refugee children (art. 22)

154. Monegasque law makes no special provision for refugee children. The protection of refugees and stateless persons in Monaco is regulated by Sovereign Order No. 996 of 2 August 1954, which gives legal effect to the United Nations Convention relating to the Status of Refugees (Geneva, 28 July 1951).

155. Monaco has passed no regulations specifically relating to refugees. The position of the Monegasque Government is identical to that of France, pursuant to the Franco-Monegasque

Convention on good-neighbourliness of 18 May 1963. Under this instrument, Monaco recognizes that an individual has the status of a refugee or stateless person provided that this status has been previously and officially granted by the French Office for the Protection of Refugees and Stateless Persons. This recognition is embodied in a French travel document and a pass issued by the Office. Accordingly, refugees may enter, stay or establish themselves in Monaco only if their refugee status has been legally recognized by the French Government. Furthermore, the consideration of all applications to reside in Monaco is subject to the granting of a visa by the French consulate at the applicant's place of residence.

156. The specifically Monegasque element in matters concerning refugees, as stipulated in article 28 of the Order referred to above, is a travel document issued by the Permanent Secretary of the Monegasque Ministry of State. This document, which is issued to persons who reside in Monaco and whose status as refugees or stateless persons has been duly recognized, is identical to a Monegasque passport and makes no mention of the bearer's nationality. It is officially recognized by the international community. Although such travel documents have indeed been issued in the past, the peculiar status of Monaco - specifically the diminutive size of its territory - means that such documents are rarely issued in practice.

157. The French Office for the Protection of Refugees and Stateless Persons handles the cases of refugees or stateless persons who have settled in Monegasque territory.

3. Children affected by armed conflicts (arts. 38 and 39)

158. Subsidies and financial assistance are provided to humanitarian organizations which may or may not specialize in the protection of children.

B. Children in conflict with the law

1. Administration of justice for minors (art. 40)

159. The principles proclaimed in article 40 of the Convention are respected in Monegasque law. They apply not only to minors, but to all persons brought before the courts. Some of these principles even have the status of constitutional law.

160. Upon ratifying the Convention, Monaco entered the following reservation to article 40, paragraph 2 (b) (v):

> "The Principality of Monaco interprets article 40, paragraph 2 (b) (v), as stating a general principle which has a number of statutory exceptions. Such, for example, is the case with respect to certain criminal offences. In any event, in all matters the Judicial Review Court rules definitively on appeals against all decisions of last resort."

Decisions handed down by the Criminal Court cannot be appealed per se, but may be subject to an appeal on points of law before the Judicial Review Court.

161. The principle of non-retroactivity of criminal legislation and the principle of the legality of the offence and the punishment (art. 40, para. 2 (a)) are guaranteed under article 20 of the Constitution and article 4 of the Criminal Code.

162. The presumption of innocence (art. 40, para. 2 (b) (i)) is a central principle of the Monegasque legal order.

163. All persons are informed of the charges filed against them (art. 40, para. 2 (b) (ii)) at their first appearance before an investigating judge, or the guardianship judge in the case of minors (Constitution, art. 19; Code of Criminal Procedure, art. 166).

164. Cases involving minors, like adult cases, are dealt with by the judicial system according to the rules laid down in the Code of Civil Procedure and the Code of Criminal Procedure, as appropriate, and the Young Offenders Act (No. 740) of 25 March 1963. No one may be remanded in custody without first being examined by a judge (Constitution, art. 19). The presence of a lawyer is mandatory for minors under the age of 18 (Code of Criminal Procedure, art. 166; Act No. 740, art. 8). Parents, who are responsible for their children under civil law, are always examined by the investigating judge.

165. Testimony in criminal cases (art. 40, para. 2 (b) (iv)) is obtained from minors over 15 in the same way as from adults. However, minors under 15 may only be examined as privileged witnesses, no oath being required (Code of Criminal Procedure, art. 134). Under the Monegasque system, as in France, the investigation covers the cases for the prosecution and the defence.

166. A person charged with an offence may under no circumstances be a witness in his or her own case. Defendants shall be exempt from taking an oath and may not even be penalized for telling untruths. They may request the examination of any witness who appears to substantiate their case (Code of Criminal Procedure, art. 125). Under no circumstances shall they be made to confess guilt.

167. The presence of an interpreter (art. 40, para. 2 (b) (vi)) is provided for at all stages of proceedings (Code of Criminal Procedure, arts. 139 and 327).

168. Respect for privacy (art. 40, para. 2 (b) (vii)), which is guaranteed in general terms by article 22 of the Constitution, is reinforced by article 8 of Act No. 740 of 25 March 1963. This Act adapts the provisions of the Code of Criminal Procedure to the special case of minors (art. 40, para. 3).

169. Under article 46 of the Criminal Code, a child under the age of 13 is not criminally responsible for his or her actions (Convention, art. 40, para. 3 (a)).

170. Pursuant to Act No. 740 of 25 March 1963, legal proceedings in respect of young offenders (art. 40, para. 3) may be simplified considerably. Thus, even when an offence is legally substantiated, the Procurator-General may decide, in the interests of the child, to drop

proceedings or to confine himself to a simple reprimand (Act No. 740, art. 3). The guardianship judge (Act No. 740, art. 7) and the court (Act No. 740, art. 9) may also confine themselves to a simple reprimand or the application of a special correctional measure.

171. Provisions dealing specifically with minors (art. 40, para. 4) are contained in Act No. 740. They range from termination of proceedings or discharge, reprimand, release under parental supervision, release under surveillance, and placement in an appropriate establishment to a maximum sentence which is nevertheless reduced in consideration of the age of the offender (Act No. 740, art. 9; Order No. 3031 of 12 August 1963, art. 5; Criminal Code, art. 46).

2. Treatment of children deprived of their liberty (art. 37, paras. (b), (c) and (d))

172. Minors deprived of their liberty are placed in a separate unit at the remand prison. They are segregated from other persons at night and all contact with adult prisoners is prohibited (Order No. 3031 of 12 August 1963, art. 9). All minors must be assisted by a lawyer, this assistance being free of charge (Criminal Code, art. 166; Act No. 740, art. 8). Any decision involving deprivation of liberty may be appealed to the panel of judges of the Appeal Court. This body must reach a decision within 10 days (Code of Criminal Procedure, arts. 186 and 191).

3. Penalties for minors (art. 37, para. (a))

173. Capital punishment has been abolished under article 20 of the Constitution, which also proscribes cruel, inhuman or degrading treatment. Article 46 of the Criminal Code prohibits life imprisonment for minors under the age of 18 (see paras. 37 and 38 on criminal liability, above).

4. Physical and psychological recovery and social reintegration (art. 39)

174. The Medical, Psychological and Educational Centre established by the Government offers free consultations for minors in situations of risk.

C. Children in situations of exploitation, including physical and psychological recovery and social reintegration (art. 39)

1. Economic exploitation, specifically child labour (art. 32)

175. Children are obliged to attend school between the ages of 6 and 16 (Education Act (No. 826) of 14 August 1967). As regards the minimum age for admission to employment, children may join the workforce once they are no longer under an obligation to attend school, i.e. at the age of 16, with the exception of children working under the direct supervision of their mother or father in establishments employing family members only. Working hours are established by articles 13 bis and 13 ter of Statutory Order No. 677 on Working Hours (see paras. 23-26 on employment, above).

2. Use of controlled substances (art. 33)

176. See Section II, paragraph 40, on the use of controlled substances.

3. Sexual exploitation and sexual violence (arts. 34 and 35)

177. See Section I (A) on measures to harmonize national law and policy with the provisions of the Convention (paras. 11 and 12); Section II (B) (3) on sexual relations (paras. 27-29), and Section V (J) on abuse and neglect, including physical and psychological recovery and social integration (paras. 91-95).

4. The sale, trafficking and abduction of children (art. 35)

178. See Section V (I) on illicit transfer and non-return (paras. 89 and 90).

D. Children belonging to a minority or an indigenous group (art. 30)

179. Monegasque law contains no special provisions on this matter. The concept of "national minority" does not exist in Monegasque law and cannot easily be applied to the Principality. Native Monegasques account for just 5,070 of Monaco's 29,972 inhabitants; consequently they form a minority in their own country. Foreigners account for over 80 per cent of the Monegasque population. There are approximately 122 different nationalities living in Monaco, the French and Italian communities being the largest.

Annex

LIST OF LEGAL AND OTHER DOCUMENTS USED IN THE PREPARATION OF THE REPORT

I. Constitution of 17 December 1962

II. Codes

Criminal Code (extracts)

Civil Code (extracts)

Code of Criminal Procedure (extracts)

Code of Civil Procedure (extracts)

III. Franco-Monegasque Convention on good-neighbourliness, signed at Paris on 18 May 1963, given effect by Order No. 3039 of 19 August 1963

IV. Acts

Welfare Assistance Office (Establishment) Act (No. 335) of 19 December 1941

Family Benefits Act (No. 595) of 15 July 1954

Minimum Employment Age Act (No. 719) of 27 December 1961

Young Offenders Act (No. 740) of 25 March 1963 and Order No. 3031 of 12 August 1963 establishing the procedure for the application thereof

Education Act (No. 826) of 14 August 1967

Licensed Pharmacist Act (No. 1029) of 16 July 1980

Social Benefits (Self-Employed Persons) Act (No. 1048) of 28 July 1982

Associations Act (No. 1072) of 27 June 1984 and Ministerial Order No. 84-582 of 25 September 1984 establishing the procedure for application thereof

Nationality Act (No. 1155) of 18 December 1992 and Order No. 10-822 of 22 February 1993 establishing the procedure for application thereof

V. Statutory orders and Orders

Statutory Order No. 397 of 27 September 1944 establishing a welfare services compensation fund in the Principality of Monaco

Statutory Order No. 677 of 2 December 1959 on working hours

Statutory Order No. 3.725 of 26 December 1966 on social benefits for seamen

Statutory Order No. 4.681 of 15 February 1960 establishing a social welfare institution for children (the Foyer Sainte-Dévote)

Order No. 4.739 of 22 June 1971 establishing benefit provisions for employees in the event of illness, accident, maternity, disablement and death (pursuant to Statutory Order No. 397 of 27 September 1944)

Order No. 10.127 of 3 May 1991 on social welfare measures for disabled persons

VI. Ministerial orders

Ministerial order No. 58-168 of 29 May 1958 concerning special occupational hygiene and safety measures for women and children

Ministerial order No. 68-125 of 12 March 1968 on admittance of minors to establishments serving alcoholic beverages

VII. Education statistics*

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* The education statistics may be consulted in the archives of the secretariat.